

### **RESPONSE TO RESTRICTION REQUIREMENT**

The Examiner has made a restriction requirement finding that the current application contains three distinct inventions:

- I. Claims 1-15, drawn to a method of analyzing a functional fluid;
- II. Claims 16-19, drawn to a test kit comprising a chemically treated test medium and a method for determining the results;
- III. Claim 20, drawn to a test kit containing test medium treated with a Alizarin indicator, means to interpret the results and instructions for performing the test.

Applicants affirm the provisional election of group I made by Ms. Teresan Gilbert on January 21, 2008 and have cancelled claims 16-20.

### **RESPONSE TO REJECTIONS**

#### Support

Applicants have amended claim 1 to specify that the functional fluid is an organic solvent based functional fluid. Support for this amendment is found on page 4, lines 3-4 of the specification. Applicants have also amended claim 1 to specify that the test medium comprises polymeric fibers. Support for this amendment is found on page 6, line 29 to page 7, line 5 of the specification.

As noted above, claims 16-20 have been cancelled.

Applicants have also added new claim 21 which specifies that the indicator used is selected from a list which does not include Acrindine Orange, Methylene Blue, Methyl Orange, Dichlorofluorescein, Bromophenol Blue, Mordant Orange 1, 4,4-bis(4-amino-1-naphthylazo-2,2-stilbene disulfonic acid)), Alizarin Red S, Bromocresol Green, and Bromocresol Purple. Support for the new claim is found in original claims 1, 7, 8 and 9 and at page 8, line 15 to page 10, line 25 of the specification.

No other elements of the claims have been amended.

#### Response

The Examiner rejected claims 1-15 under 35 U.S.C. 102(b) as being anticipated by Becket (US 5,710,372), Morris (US 4,793,977) or Pickup (US 3,580,704). Applicants respectfully disagree.

Becket is limited to the analysis of aqueous fluids (see the abstract and col 1, lines 5-10 of Becket). In contrast, the present invention specifies the use of an organic solvent based functional fluid. There is no teaching or motivation to use the methods of Becket in non-aqueous systems. Therefore, Applicants respectfully request all rejections based on this reference be removed.

Morris is limited to the use of a polymeric matrix, a solid polymer mass prepared from ionomers. The ionomer matrix is reacted with a dye and then further reacted with a base in order to create the detector (see col 2, line 52 to col 3, line 37 of Morris). In contrast, the present invention specifies in claim 1 that the test medium comprises polymeric fibers. These polymeric fibers may be woven into a thin pad, to which the indicator may be applied. These polymeric fibers are not reacted with the dyes to form a polymeric matrix as taught by Morris. Morris has no teaching toward or disclosure of the use of polymeric fibers in a test medium. Therefore, Applicants respectfully request all rejections based on this reference be removed.

Pickup is limited to the use of a solid carrier to bring the indicator in contact with the liquid. Pickup teaches that the solid carrier should be absorbent (see col 2, lines 4-12 of Pickup) and specifically mentions bleached kraft paper (see col 3, lines 27 and 56 of Pickup). In contrast, the present invention specifies in claim 1 that the test medium comprises polymeric fibers. Polymeric fibers, even when woven into a pad, do not have absorbent properties. Pickup has no teaching toward or disclosure of the use of polymeric fibers in a test medium. Therefore, Applicants respectfully request all rejections based on this reference be removed.

In addition, the dyes taught by Morris are limited to Mordant Orange 1, 4,4-Bis(4 amino-1 naphthylazo 2,2 stilbene disulfonic acid), acridine orange, methylene blue, methyl orange, 2,7-dichlorofluorescein and bromophenol blue (see the Examples of Morris). Morris lists no other dyes that may be used other than limited guidance on the pH characteristics of suitable dyes (see col 3, lines 6-14 of Morris). In contrast, new claim 21 specifies a list of indicators which the present invention may use. None of the dyes disclosed in Morris are included in the list of indicators in new claim 21. Therefore, Applicants respectfully submit that new claim 21 is novel over Morris.

Similarly, Pickup's disclosure is limited to the use of bromophenol blue, Alizarium Red S, bromocresol green and bromocresol purple (see the Examiner of Pickup). There are no additional indicators listed in Pickup and only limited guidance on the characteristics of suitable indicators (see col 2, line 69 to col 3, line 15 of Pickup). In contrast, new claim 21 specifies a list of indicators which the present invention may use. None of the indicators disclosed in Pickup are included in the list of indicators in

new claim 21. Therefore, Applicants respectfully submit that new claim 21 is novel over Morris.

In case the Examiner is considering obviousness rejections based on any of these references, Applicants note that none of the references teach toward a test medium comprising polymeric fibers and none of the references identify or teach toward any of the indicators listed in claim 21. Therefore, Applicants respectfully submit that obviousness rejections based on any of these references would be improper.

Conclusion.

For the foregoing reasons it is submitted that the present claims are novel and unobvious over the cited references, and in condition for allowance. The foregoing remarks are believed to be a full and complete response to the outstanding office action. Therefore an early and favorable reconsideration is respectfully requested. If the Examiner believes that only minor issues remain to be resolved, a telephone call to the Undersigned is suggested.

Any required fees or any deficiency or overpayment in fees should be charged or credited to deposit account 12-2275 (The Lubrizol Corporation).

Respectfully submitted,

/Christopher D. Hilker #58,510/

Phone: (440) 347-4231  
Telefax: (440) 347-1110

The Lubrizol Corporation  
29400 Lakeland Blvd.  
Wickliffe, OH 44092

Christopher D. Hilker  
Attorney for Applicant  
Reg. No. 58,510